**IN THE CLAIMS:**

Claims 1, 2 and 3 have been amended herein. Claims 7-20 and 22-29 have been cancelled. Claims 30-39 have been added. Please note that all claims currently pending and under consideration in the referenced application are shown below. Please enter these claims as amended. This listing of claims will replace all prior versions and listings of claims in the application.

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1. (Amended) A method for producing a recombinant adenovirus comprising a gene of interest, without the concomitant production of replication competent adenovirus through homologous recombination, said method comprising:

providing a cell, said cell harboring a first nucleic acid encoding functional E1A protein and E1B protein but not pIX protein of an adenovirus ~~based on or derived from adenovirus~~;

transferring recombinant nucleic acid into said cell, said recombinant nucleic acid comprising:

another nucleic acid ~~based on or derived from adenovirus, and further~~ including at least one ~~functional~~ encapsidation signal, and at least one functional Inverted Terminal Repeat, said recombinant nucleic acid further comprising a gene of interest and all sequences required for replication of said recombinant nucleic acid which are not provided by said cell; said recombinant nucleic acid lacking overlapping sequences with the ~~cellular~~ first nucleic acid, which overlap could otherwise lead to homologous recombination resulting in the formation of replication competent adenovirus;

culturing said cell; and

harvesting recombinant adenovirus produced from said cell.

2. (Amended) The method according to claim 1 wherein said recombinant nucleic acid is one nucleic acid molecule in linear form and comprises functional Inverted Terminal Repeats at or near both termini.

3. (Amended) The method according to claim 1 wherein said cell is derived from a primary cell.

4. The method of claim 1 wherein said recombinant nucleic acid is DNA.

5. The method of claim 2 wherein said recombinant nucleic acid is DNA.

6. The method of claim 3 wherein said recombinant nucleic acid is DNA.

Please cancel claims 7 through 20 and 22 through 29.

30. (New) The method of claim 1, wherein said cell is a human cell.

31. (New) The method of claim 1, wherein said first nucleic acid is integrated into the genome of said cell.

32. (New) The method of claim 1, wherein said cell is derived from a retina cell.

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33. (New) The method of claim 1, wherein said cell is derived from an embryonic cell.

34. (New) The method of claim 1, wherein said recombinant nucleic acid comprises at least two nucleic acid molecules that upon homologous recombination in said cell are capable of forming said recombinant nucleic acid.

35. (New) The method of claim 1, wherein said first nucleic acid contains nucleotides 459-3510 of the human adenovirus 5 genome.

36. (New) The method of claim 1, wherein said cell is a PER.C6 cell, as deposited under No. 96022940 at the European Collection of Animal Cell Cultures.

37. (New) The method of claim 1, wherein said cell further harbors nucleic acid encoding an E2A gene product of an adenovirus.

38. (New) The method of claim 37, wherein said E2A gene product has a temperature sensitive 125 mutation.

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39. (New) A batch of recombinant adenovirus particles comprising a gene of interest, wherein said batch is obtainable by the method of claim 1 and is free of replication competent adenovirus.